

Atty. Docket No. 2003-0067-01
USSN 10/672,181

Remarks

In the Final Office Action, claims 33 and 35 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hori et al 6,810,061 in view of Ujazdowski et al 6,654,403. Also, the Examiner has rejected claims 34 and 36 as being dependent upon a rejected base claim, but has indicated that these claims would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims. In addition, the Examiner has allowed claims 1, 3, 4, 17, 19 and 20.

In this Response to Final Office Action, arguments are presented to distinguish claim 33 from the cited art. Claims 1, 3, 4, 17, 19, 20 and 33-36 remain pending.

Rejections under 35 U.S.C. § 103(a)

In the Office Action, claims 33 and 35 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hori et al 6,810,061 in view of Ujazdowski et al 6,654,403. Also, the Examiner has indicated that dependent claims 34 and 36 would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

As currently pending, independent claim 33 recites, *inter alia*, a gas discharge electrode comprising a copper and copper alloy electrode body having a *conductive* upper curved region containing the discharge footprint for the electrode comprising copper and a lower portion comprising a copper alloy. The Examiner has indicated that Hori et al discloses "an electrode having a film as an insulator for protection against halogen substances and the film is made of copper fluoride". The Examiner has also indicated that "it is well understood in the art that copper fluoride is a conductive metal halide". Applicants respectfully disagree. The Hori et al reference itself, lists copper fluoride as an example of a film form *insulator*. In this regard, the Examiner has not provided a suitable reference indicating that copper fluoride, and in particular, copper fluoride as used in the Hori reference, as a film, is conductive.

It is well established law that the initial burden of going forward is on the Examiner to establish *prima facie* obviousness otherwise the applicant has no obligation to submit evidence of nonobviousness. (See e.g. M.P.E.P. §2142.). Equally important, for *prima facie* obviousness, all of the claim limitations must be taught or suggested by

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the prior art. (See M.P.E.P. §2143.03. See *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974); *In re Wilson*, 424 F.2d 1382, 1385, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Accordingly, because the Examiner has not provide a suitable prior art citation indicating that copper fluoride is conductive, Applicant respectfully contends that the Examiner has failed to establish a prima facie case of obviousness with regard to independent claim 33.

In view of the arguments presented above for distinguishing independent claim 33 of the present invention from the cited references, Attorney for Applicant respectfully contends that independent claim 33 is now allowable. Accordingly, since rejected claims 34-36 respectively depend either directly or indirectly from independent claim 33, these claims are also allowable. In conclusion, Applicant respectfully asserts that claims 1, 3, 4, 17, 19, 20 and 33-36 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at (858)-385-5298 for any reason that would advance the instant application to issue.

Respectfully submitted,



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